



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

August 4, 2015

Mr. James R. Evans, Jr.  
Counsel for the Madison County Appraisal District  
Hargrove & Evans, L.L.P.  
Building 3, Suite 400  
4425 Mopac South  
Austin, Texas 78735

OR2015-16025

Dear Mr. Evans:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 574359.

The Madison County Appraisal District (the "district"), which you represent, received a request for the preliminary 2015 Mineral Tax Roll. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.149 of the Government Code. Additionally, you indicate release of the submitted information may implicate the proprietary interests of Pritchard & Abbott, Inc. ("P&A"). You provide documentation showing you notified P&A of the request for information and of the company's right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have received comments from P&A. We have considered the submitted arguments and reviewed the submitted representative sample of information.<sup>1</sup>

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<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Initially, we note you state the submitted information was prepared for the district by P&A, an outside appraiser. Section 25.01(c) of the Tax Code provides as follows:

A contract for appraisal services for an appraisal district is invalid if it does not provide that copies of the appraisal, together with supporting data, must be made available to the appraisal district and such appraisals and supporting data shall be public records. "Supporting data" shall not be construed to include personal notes, correspondence, working papers, thought processes, or any other matters of a privileged or proprietary nature.

Tax Code § 25.01(c). The effect of this provision is to make public the appraisal and "supporting data" that must be provided to the district. *See* Attorney General Opinion JC-0424 at 2 (2001) (section 25.01(c) provides that certain information used or created by appraisal firm must be made available to appraisal district and deems that information public). Exceptions to disclosure under the Act, such as sections 552.110 and 552.149 of the Government Code, generally do not apply to information that is made public by other statutes, such as section 25.01(c). *See* Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989). However, you state the requested information comprises working papers and matters of privileged or proprietary nature, and does not constitute "supporting data" for the purposes of section 25.01(c). Accordingly, we will consider your arguments under sections 552.101 and 552.149 of the Government Code.

Section 552.149 of the Government Code provides, in relevant part:

(a) Information relating to real property sales prices, descriptions, characteristics, and other related information received from a private entity by the comptroller or the chief appraiser of an appraisal district under Chapter 6, Tax Code, is excepted from the requirements of [the Act].

(b) Notwithstanding Subsection (a), the property owner or the owner's agent may, on request, obtain from the chief appraiser of the applicable appraisal district a copy of each item of information described by Section 41.461 (a)(2), Tax Code, and a copy of each item of information that the chief appraiser took into consideration but does not plan to introduce at the hearing on the protest. In addition, the property owner or agent may, on request, obtain from the chief appraiser comparable sales data from a reasonable number of sales that is relevant to any matter to be determined by the appraisal review board at the hearing on the property owner's protest[.]

Gov't Code § 552.149(a)-(b). Subsections 552.149(a) and (b) are limited to those counties having a population of 50,000 or more. *Id.* § 552.149(e). We note Madison County has a

population of less than 50,000.<sup>2</sup> Accordingly, section 552.149 is not applicable to the submitted information and the district may not withhold any of it on that basis.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. This section encompasses information protected by other statutes, such as section 22.27 of the Tax Code, which provides in pertinent part:

(a) Rendition statements, real and personal property reports, attachments to those statements and reports, and other information the owner of property provides to the appraisal office in connection with the appraisal of the property, including income and expense information related to a property filed with an appraisal office and information voluntarily disclosed to an appraisal office or the comptroller about real or personal property sales prices after a promise it will be held confidential, are confidential and not open to public inspection. The statements and reports and the information they contain about specific real or personal property or a specific real or personal property owner and information voluntarily disclosed to an appraisal office about real or personal property sales prices after a promise it will be held confidential may not be disclosed to anyone other than an employee of the appraisal office who appraises property except as authorized by Subsection (b) of this section.

Tax Code § 22.27(a). You indicate the district is an “appraisal office” for purposes of section 22.27(a). You state the information the district seeks to withhold consists of documents generated by P&A from information obtained from property owners under a promise of confidentiality. Based on your representations, we find the information you have marked is confidential under section 22.27(a) and must be withheld under section 552.101 of the Government Code. *See* Open Records Decision No. 387 (1983) (stating, among other things, that names and addresses of owners and ownership interest of each owner contained in division orders of wells and leases provided to appraisal district under a promise of confidentiality are confidential pursuant to section 22.27 of the Tax Code). The remaining information must be released.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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<sup>2</sup>The population of Madison County was 13,667 in 2010 and was estimated to be 13,861 in 2014. U.S. Bureau of the Census, State and County Quick Facts, *available at* <http://quickfacts.census.gov/qfd/states/48/48313.html>.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in cursive script that reads "Abigail T. Adams". The signature is written in dark ink and is positioned above the typed name and title.

Abigail T. Adams  
Assistant Attorney General  
Open Records Division

ATA/akg

Ref: ID# 574359

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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(w/o enclosures)